

SCOTT COUNTY BROADCASTING, INC.  
10 TRINITY PLACE  
FORT THOMAS, KY. 41075  
606-781-5715

May 9, 1995

RECEIVED

MAY 10 1995

FEDERAL COMMUNICATIONS COMMISSION

Secretary  
Federal Communications Commission  
1919 M Street N.W.  
Washington, D.C. 20554

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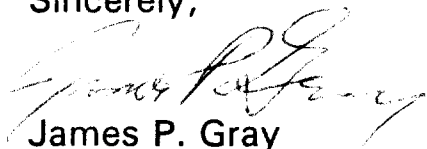
Reference: Docket MM 95-28  
RM-8593

Dear Secretary:

Enclosed are five signed copies of Reply Comments from Scott County Broadcasting, Inc. for submission in MM Docket 95-28 regarding Allocation of Channel 241A to Stamping Ground, Ky.

Please contact me should there be any questions.

Sincerely,



James P. Gray  
President, Scott County Broadcasting, Inc.

No. of Copies rec'd 024  
List A B C D E

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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JUL 10 1995

FCC WASHINGTON

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcasting Stations  
(Stamping Ground, KY)

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)

MM Docket 95-28  
RM-8593

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF SCOTT COUNTY BROADCASTING, INC.**

Scott County Broadcasting Company, Inc. ("Scott County"), licensee of WKYI(FM), Stamping Ground, Kentucky, hereby files reply comments regarding a counterproposal to the Commission's Notice of Proposed Rule Making, 10 FCC Rcd 2301 (1995). Originally Scott County proposed the substitution of channel 241A for 256A to Stamping Ground, KY, to allow WKYI to eliminate various shortspacings and increase power to a full six kilowatt operation. The proposed upgrade would eliminate the current interference WKYI receives from grandfathered co-channel WHKO(FM), Dayton, Ohio, as well as eliminating interference that WHKO receives from WKYI. The result is an increase in service area, particularly important since WKYI is the only local service licensed

to Stamping Ground, Kentucky, thus benefiting the public interest. The Scott County proposal is unencumbered and can be granted immediately. The only comments received by Scott County regarding this change were filed by attorneys for Mortenson Broadcasting Company of Kentucky, ("Mortenson"), licensee of WCGW, Nicholasville, Kentucky, and co-owned with Mortenson's group of stations, which includes WCGW(FM) licensed to Versailles, Kentucky, with studios located near Lexington, Kentucky.

It should be noted that Mortenson is the licensee of a translator on channel 241A in Lexington, Kentucky, which will be eliminated or require a channel change if the Scott County proposal is adopted. This counterproposal filed by Mortenson is mutually exclusive with the Scott County proposal and seeks, instead, to allocate channel 240A to Nicholasville as its fourth local service. Nicholasville presently has three stations allocated to it, one a class A FM and two AM stations.

Mortenson's proposed Channel 240A at Nicholasville, Kentucky, is fatally short-spaced by 86.05 kilometers to WRSL, licensed on Channel 240A at Stanford, Kentucky, as shown on the spacing study attached as Exhibit A. Mortenson failed to admit this fact in its comments. Mortenson's proposal for channel 240A at Nicholasville is contingent upon a proposed, but not yet undertaken, change in frequency and location by WRSL, which has not, and may never be, accomplished. Therefore the counterproposal filed by Mortenson should be dismissed, since it is contingent. Mortenson has based its proposal on the speculation that WRSL, Channel 240A, in Stanford will upgrade its facility to 242C3 as WRSL has filed in a "one step application" (BPH-941027IG), but which, to date, has not yet been completed or licensed. This change requires

that a new site be acquired and considerable construction be undertaken, the outcome of which remains uncertain. Thus, Mortenson, by filing its contingent counterproposal, is gambling on the supposition that the proposed Stanford 242C3 facility will someday be licensed, to permit allocation of the proposed 240A facility in Nicholasville, which otherwise is tragically shortspaced and could never be allocated. Therefore, in keeping with the Commission's long established policy of not accepting contingently proposed rulemakings that are filed with the hope that some other situation may eventually take place in the future, this proposal by Mortenson should be dismissed and the Scott County proposal substituting channel 241A for 256A at Stamping Ground, Kentucky, be granted.

Ignoring the fact that the Mortenson proposal is short-spaced and contingent and allowing the proposal to stand would not only deny Stamping Ground and presently underserved areas the opportunity to receive upgraded service, but would also deny a number of unserved communities the opportunity to receive "first local service" should WRSL ever actually construct and license a facility on channel 242C3. Exhibit B is a showing of communities which could receive first local service on Channel 240A, but cannot be proposed at this time because they are short-spaced to the licensed WRSL 240A facility and are contingent on WRSL becoming licensed on channel 242C3. First local service to these communities would be excluded permanently by the contingent Mortenson proposal. They would not be mutually exclusive to or be precluded by the Scott County proposal of 241A at Stamping Ground. Mortenson should not be allowed to "short-cut" the rule making process by proposing a contingent counterproposal and deny the opportunity for first local service to communities that may need it and who are willing to properly follow the process to obtain it.

Regarding the merit of the arguments of the Mortenson counterproposal Scott County would like to address each item as follows:

**1. Mortenson has proposed, in error, that adequate spacing is available for the proposed 240A facility at Nicholasville.** Adequate spacing is presently not available at or anywhere near the site since the proposal is contingent on the speculated upgrade of WRSL, Stanford, Kentucky, to 242C3. Presently the facility is at 240A which patently precludes the allocation of 240A to Nicholasville by over 85 kilometers.

**2. Mortenson erroneously implies that Stamping Ground receives local service from "...two or more radio services." and the Scott County proposal should, therefore, be denied.** Only one station is licensed to Stamping Ground, Kentucky, and that is Scott County's station, WKYI(FM). In fact, WKYI is one of only two commercial FM stations in the entire county of Scott county, Kentucky. An upgrade, as proposed by Scott County, will provide additional coverage area and reduced interference in the area north of Stamping Ground, an area which presently is underserved. (Exhibit C.)

**3. Mortenson implies that elimination of interference should not be considered because it was evident when the original rulemaking for the present channel was filed.** When the original rulemaking was filed the only channel available for Stamping Ground was the present 256A facility. Suffering from interference and short-spaced under present rules, it was the only allocation available for the area and was submitted and adopted as first local service to serve the needs of the community. Channel 256A is still the only service to the Stamping Ground area. Channel 241A has subsequently become available for Stamping Ground and, thus, has been proposed to eliminate this interference as well as the associated shortspacings and to provide upgraded

service to a full six kilowatt operation. Had 241A, or another channel, been available in 1989 for Stamping Ground, it, and not 256A, would have been proposed.

**4. and 5. Mortenson seems to be questioning the Commission's decision regarding the original 1989 rulemaking allocating 256A to Stamping Ground.** Mortenson's comments questioning the 1989 rulemaking should have been directed to that proceeding in 1989 versus this one in 1995. Yet Mortenson did not file comments in that proceeding although it was a licensee in the area at that time. The facts as stated above by Scott County are the relevant issue. That is, adoption of the Scott County proposal will improve service to underserved areas, eliminate interference, and eliminate shortspacings. The Scott County proposal is not contingent upon any other changes and can be implemented immediately. The Mortenson proposal is contingent upon other outcomes and cannot be immediately undertaken.

**6. Mortenson states it "...desires to operate an FM station to offer its programming to the residents of Nicholasville on a full time schedule."** Yet Mortenson already owns an FM station which covers Nicholasville with its 1mv/m contour. Mortenson is not only the licensee of WCGW(AM) in Nicholasville, it is also the licensee of WCGW-FM, Versailles, according to the FCC database dated 3/24/95, which has full 1mv/m coverage of the entire city of Nicholasville. (See the attached Exhibit D.) WCGW-FM operates on channel 292A and is located near Lexington, Kentucky. If Mortenson desires to serve the citizens of Nicholasville on a full time basis it can do it with its present facility. Furthermore, another FM facility, channel (273A) WCKU, as well as a full time AM station, WNVL (1250khz), are also licensed to Nicholasville, which may be available for Mortenson's needs. Therefore, this argument seems entirely without merit.

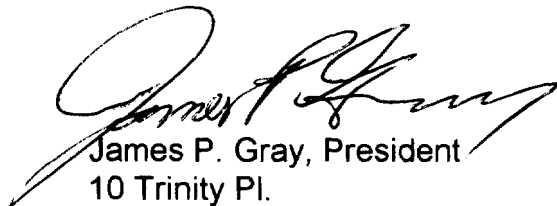
The Scott County proposal is the only proposal which benefits the public interest by immediately providing increased service to underserved areas, eliminating interference, and eliminating existing short spacings. It can be granted and undertaken immediately, is not contingent upon any other existing proposals as is the Mortenson counterproposal as demonstrated herein, and the Scott County proposal does not preclude future first local service to underserved communities as the Mortenson counterproposal does. If granted, Scott County will expeditiously proceed with construction to change its facility as proposed.

Therefore, Scott County Broadcasting Co., Inc. hereby requests that the Commission dismiss the counterproposal filed by Mortenson and grant the upgrade of WKYI, Stamping Ground, Kentucky, from 256A to 241A.

I declare and verify under penalty of perjury that the foregoing is true and correct and that it is not interposed for delay.

Respectfully submitted

SCOTT COUNTY BROADCASTING INC.

A handwritten signature in dark ink, appearing to read "James P. Gray", is written over the printed name and address.

James P. Gray, President  
10 Trinity Pl.  
Fort Thomas, KY 41075  
May 9, 1995

## CERTIFICATE OF SERVICE

I, James P. Gray, President of Scott County Broadcasting, Inc., do hereby certify that I have this 9th day of May, 1995, sent by first class U.S. Mail, postage prepaid, copies of the foregoing " Reply Comments" to the following:

Mark N. Lipp, Counsel

Mortenson Broadcasting Co., of KY, L.L.C.

c/o Mullin, Rhyne, Emmons, and Topel, P.C.

1225 Connecticut Ave., N.W. Suite 300

Washington, D.C. 20036-2604

SCOTT COUNTY BROADCASTING, INC.

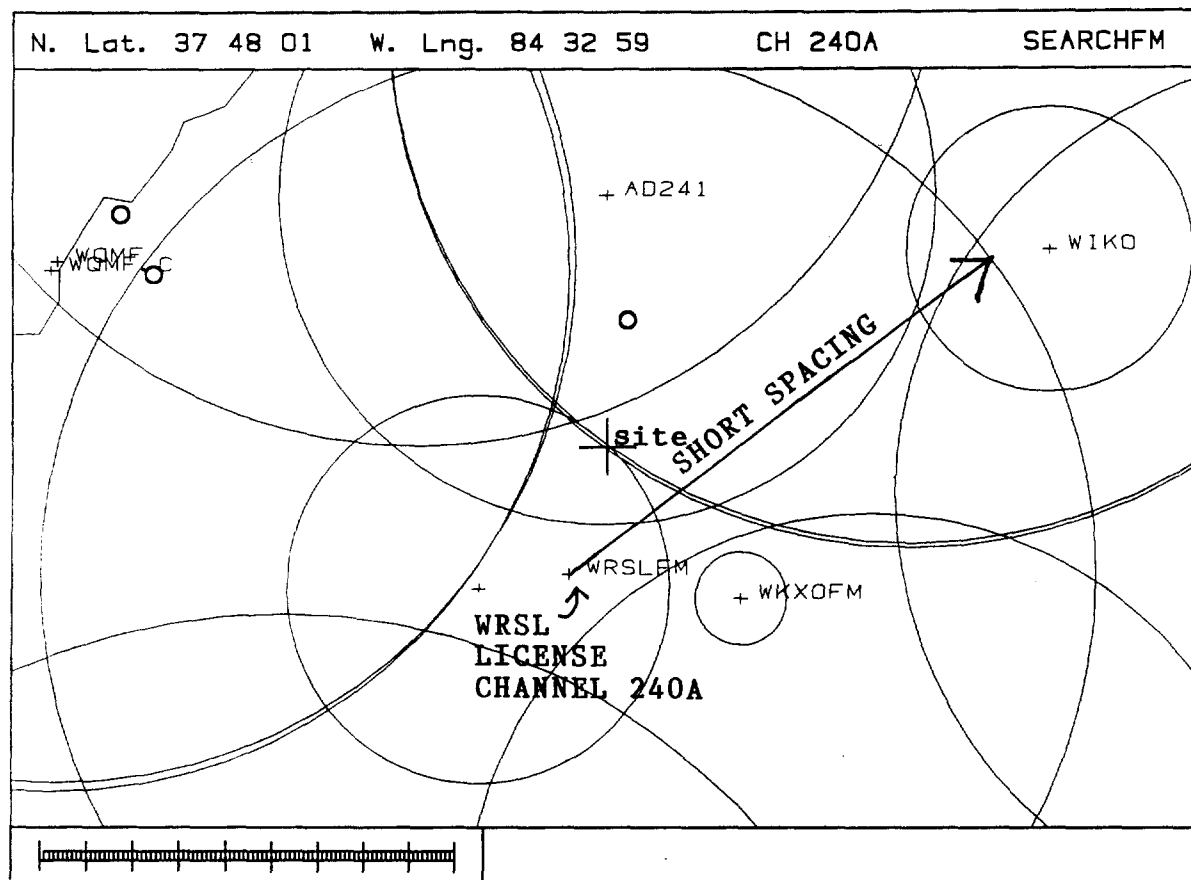
A handwritten signature in black ink, appearing to read "James P. Gray", is written over the printed name.

James P. Gray,

President



## SPACING STUDY OF MORTENSON 240A TO NICHOLASVILLE, KY.



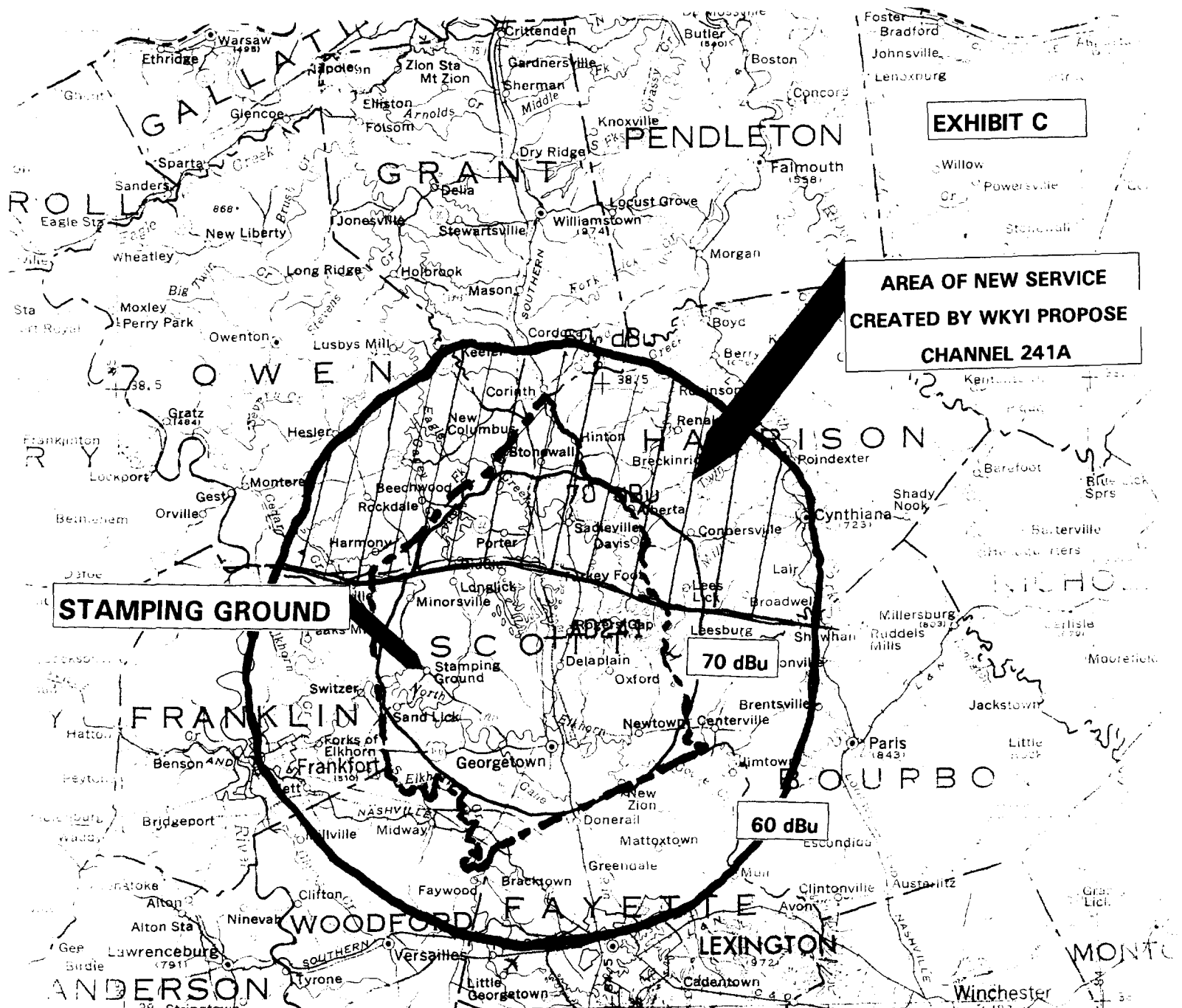
SPACING STUDY 240A

SHORT  
SPACING

Call	CH#	Location		D-KM	Azi	FCC	Margin
WRSLEFM	240A	Stanford	KY	28.95	197.0	115.0	-86.05
AD241	241A	Stamping Groun	KY	54.94	359.7	72.0	-17.06
WFTMFM	240A	Maysville	KY	114.53	35.7	115.0	-0.47
WRSLEFM	242C3	Stanford	KY	41.69	222.7	42.0	-0.31
WFTMFM	240A	Maysville	KY	115.32	35.4	115.0	0.32
WKID	240A	Vevay	IN	122.47	340.2	115.0	7.47
WQMF	239B	Jeffersonville	IN	126.67	288.6	113.0	13.67
WQMF.C	239B	Jeffersonville	IN	127.34	287.6	113.0	14.34
WYWFYFM	241C3	Barbourville	KY	118.73	150.8	89.0	29.73
WKXOFM	294A	Berea	KY	44.12	138.2	10.0	34.12
WCSD	240C3	Livingston	TN	191.86	201.8	142.0	49.86
WQHY	238C	Prestonsburg	KY	158.45	93.7	95.0	63.45
WIKO	242A	Morehead	KY	105.59	65.9	31.0	74.59

Call	CH#	Location		D-KM	Azi	FCC	Margin
WRSLFM	240A	Stanford	KY	26.98	252.0	115.0	-88.02
AD241	241A	Stamping Groun	KY	76.30	347.0	72.0	4.30
WYWYFM	241C3	Barbourville	KY	93.63	154.3	89.0	4.63
WRSLFM	242C3	Stanford	KY	46.85	256.2	42.0	4.85
WFTMFM	240A	Maysville	KY	122.79	24.0	115.0	7.79
WKXOFM	294A	Berea	KY	18.27	137.8	10.0	8.27
WFTMFM	240A	Maysville	KY	123.67	23.8	115.0	8.67
WKID	240A	Vevay	IN	146.81	336.6	115.0	31.81
WQMF	239B	Jeffersonville	IN	149.66	293.7	113.0	36.66
WQMF.C	239B	Jeffersonville	IN	150.12	292.8	113.0	37.12
WCSD	240C3	Livingston	TN	181.79	209.2	142.0	39.79
WQHY	238C	Prestonsburg	KY	141.27	86.3	95.0	46.27
WMXK.C	240A	Morristown	TN	179.88	149.4	115.0	64.88
DE240	240A	Morristown	TN	179.92	149.4	115.0	64.92
WMXK	240A	Morristown	TN	179.92	149.4	115.0	64.92
WIKD	242A	Morehead	KY	100.83	51.8	31.0	69.83

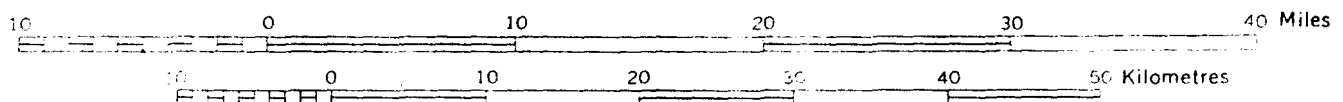
PAINT LICK	360
KINGSTON	410
LANCASTER	3,365
BEREA	8,226
RICHMOND	21,700



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY

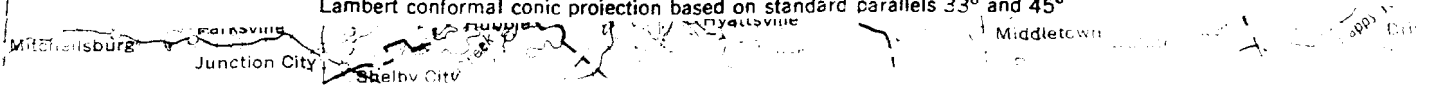
# STATE OF KENTUCKY

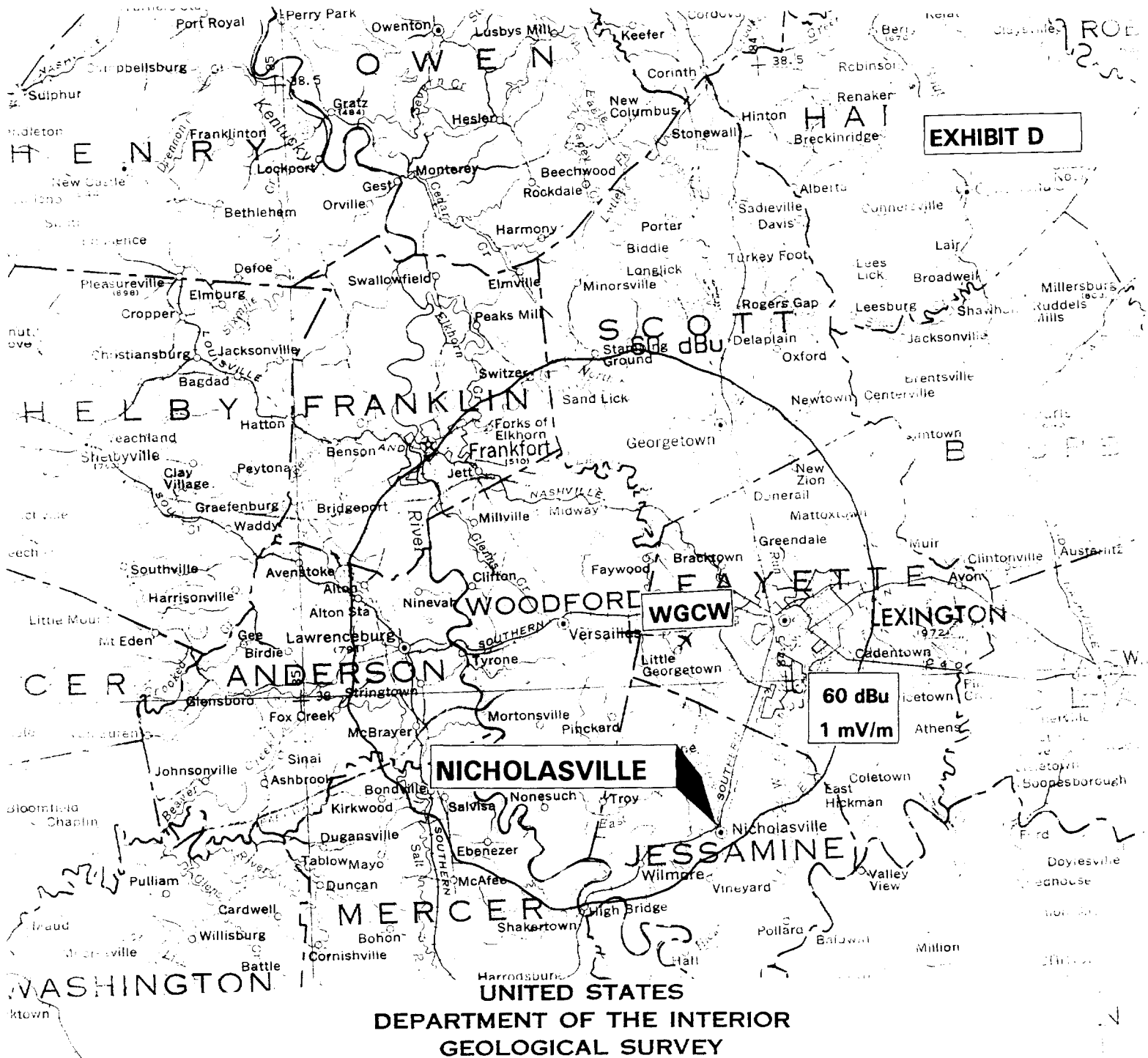
Scale 1:500,000  
1 inch equals approximately 8 miles



Contour interval 200 feet  
National geodetic vertical datum of 1929

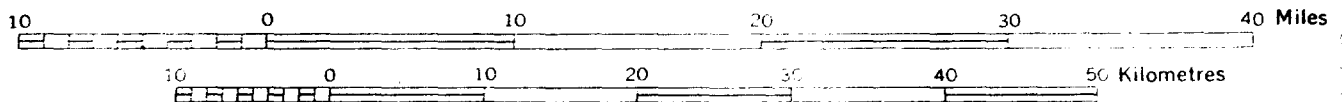
Compiled, edited, and published by the Geological Survey. 1927 North American datum  
Lambert conformal conic projection based on standard parallels 33° and 45°





# STATE OF KENTUCKY

Scale 1:500,000  
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